IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

TUESDAY, THE 7TH AUGUST 2007 / 16TH SRAVANA 1929

RPFC.No. 188 of 2006()

MC.332/2005 of the Family Court, Kasaragod
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PETITIONER/RESPONDENT

USMAN.K., AGED 60 YEARS,
S/O.ABBAS KADAVATH, BILAL BAGH PARAKATTA ROAD,
R.D.NAGAR POST, KASARAGOD.

BY ADV. SRI.K.K.MOHAMED RAVUF

RESPONDENTS: PETITIONER

KURSHIDA, AGED 50,
W/O.USMAN.K., RAFEEQUE QUARTERS,
ANANGOOR, KASARAGOD.

BY ADV. SRI.T.B.SHAJIMON

THIS REV.PETITION(FAMILY COURT) HAVING BEEN FINALLY HEARD ON 07/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V.RAMKUMAR, J.

R.P. (F.C) No. 188 of 2006

Dated: 7-8-2007

O R D E R

The 60 year old respondent who is the 2nd wife of the revision petitioner who is aged 70 years, filed M.C. 332 of 2005 seeking maintenance at the rate of Rs. 4,000/- per month under Section 125 Cr.P.C. The court below as per order dated 24-5-2006 directed the revision petitioner to pay monthly maintenance to the respondent at the rate of Rs. 2,500/- per month from 25-10-2005 onwards, that is, from the date of petition.

2. The admitted facts are the following:-

The respondent is the 2nd wife of the revision petitioner who contracted the marriage 40 years ago. She lived with the revision petitioner for twenty years. Three male children and a female child has been born in that wedlock. 20 years after she left the matrimonial home, she filed the present application for maintenance.

3. The court below while fixing the quantum of Rs. 2,500/- per month was mainly carried away by the fact that the revision petitioner had contracted yet another marriage and if so he cannot oppose the claim for maintenance. But it must be remembered that it was consequent on the respondent bidding farewell to the matrimonial home along with her four children

which compelled the revision petitioner to marry again since his first wife is a patient of total paralysis. On the question of means there was only oath against oath. Having regard to the fact that the revision petitioner is also a sickly person aged 70 and there are other pressing claims on his resources including the medical expenses for his sickly first wife, I am of the view the quantum of Rs 2,500/- fixed per month is on the higher side. This Court while admitting this revision had passed an interim order directing the revision petitioner to deposit Rs. 12,500/- within 30 days and to continue to pay at the rate of 1,250/- per month. There is no dispute that the revision petitioner has been punctiliously complying with the said interim order . Under these circumstances and having regard to the facts and circumstances of the case including the means of the revision petitioner and the pressing claims on his means it would be just and proper to fix a sum of Rs. 1,500/- as maintenance payable to the respondent. The order dated 25-5-2006 passed by the Family Court, Kasaragod will stand modified.

This revision is allowed in part modifying the monthly maintenance payable to the respondent/wife as 1,500/- (Rupees one thousand five hundred only) instead of Rs. 2,500/- fixed by the Family Court. The petitioner shall remit the difference amount before the court below within one month from today.

V. Ramkumar, Judge.

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